



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 21, 1998

Mr. Miles K. Risley  
City Attorney  
City of Victoria  
Legal Department  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR98-1994

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117520.

The Victoria Police Department (the "department") received a request for documents involving specified incidents. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Open Records Decision No. 644 (1996) held that section 58.007 of the Family Code does not make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after January 1, 1996, that are maintained by law enforcement agencies. However, juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007(c) of the Family Code. The relevant language of amended Family Code section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records, and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Section 58.007(c) of the Family Code applies to juvenile law enforcement records concerning conduct occurring on or after September 1, 1997, that are maintained by law enforcement agencies. None of the records you submitted fall within the parameters of section 58.007(c) of the Family Code.

However, we note that section 51.14(d) of the Family Code was repealed in the seventy-fourth legislative session.<sup>1</sup> Family Code sections 58.007, 58.106 essentially replaced section 51.14.<sup>2</sup> We observe that these amendments apply only to conduct that occurs on or after January 1, 1996.<sup>3</sup> "Conduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose." *Id.* Some of the records you submitted for our review concern conduct that occurred before January 1, 1996. Accordingly, we address those claims under section 51.14(d). You argue that section 552.101 in conjunction with section 51.14(d) of the Family Code excepts some of the records from required public disclosure. We agree and have marked those records which are excepted from disclosure.

However, Open Records Decision No. 644 (1996), as it interpreted the prior law, still applies to records concerning juvenile conduct that occurred from January 1, 1996 to August 31, 1997 and some of the records submitted fall within that period. Accordingly, we have marked those records which fall within that time period and consequently those records must be released.

Additionally, you assert that some of the requested information is excepted from disclosure as it involves the abuse of a child as defined under section 261.001 of the Texas Family Code. We observe that subsection (a) of section 261.201 of the Family Code provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with . . . [the Family] code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under . . . chapter [261 of the Family Code] and the identity of the person making the report; and

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<sup>1</sup> See, Act of May 27, 1995, 74th Leg., R.S., ch 262, §§100, 105, 106, 1995 Tex.Sess.Law Serv. 2517, 2590-91 (Vernon).

<sup>2</sup> Act of May 27, 1995, 74th Leg., R.S., ch 262, § 53, 1995 Tex.Sess. Law Serv. 2517, 2552-53, 2555.

<sup>3</sup> *Id.* § 106, 1995 Tex. Sess. Law Serv. at 2591.

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

One of the submitted reports consists of "reports, records, communications, and working papers used or developed" in an investigation made under chapter 261 of the Family Code. Thus, the information in this report may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the Victoria Police Department, which is the agency that investigated the allegation. Since you have not informed this office that the Victoria Police Department has adopted any rules providing for release of this information, we conclude that the information in this report is confidential and may not be disclosed.<sup>4</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/nc

Ref.: ID# 117520

Enclosures: Submitted documents

cc: Mr. Richard Ryan  
P.O. Box 17  
Smithville, Texas 78957  
(w/o enclosures)

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<sup>4</sup> Additionally, we note that one record submitted does not appear responsive to the requested information and we have marked that record as nonresponsive.